

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101  
Prepared by: Christopher M. Gratz, Planner II

**SUBJECT:** Quasi Judicial Hearing: Variance, V 9-1-04 Mira Group Inc./Paul Garcia, 3692 Churchill Downs Drive/Generally located on the east side of Churchill Downs Drive, approximately 700' north of Laurel Road.

**AFFECTED DISTRICT:** District 2

**TITLE OF AGENDA ITEM:** V 9-1-04 Mira Group 3692 Churchill Downs Drive (AG)

**REPORT IN BRIEF:** The applicant has requested a variance from §12-81 (A) of the Land Development Code, Conventional Single Family Development Standards, which requires 35' minimum side setbacks in the AG, Agricultural District; to reduce the side setback on the north side of the property to 25' so that an addition may be constructed in line with the 25' side setback of the existing home. At the time of site plan approval the side setback in the AG, Agricultural District was 25', and the home was constructed at this side setback. The adoption of the Rural Lifestyle Initiative changed the minimum side setback in the AG, Agricultural District to 35'.

The applicant's request is to reduce the required side setback of the AG, Agricultural District by 10' on the north side of the property in order to allow the construction of a 1,886 square foot addition that would maintain the side setbacks of the existing 4,959.5 square foot home. The proposed addition contains a guest bedroom, storage room, pool bathroom, television room, game room, and a bar under a covered patio.

The applicant has obtained consent from the Home Owner's Association and both abutting neighbors. The justification by the applicant for this variance is that the existing home has been built with a 25' side setback. In review of the survey and building plans, staff concludes that while it may seem logical to build an addition in line with an existing structure, the parcel and existing home can accommodate an addition with a 35' side setback that includes the proposed amenities.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations in the Long Lake Estates subdivision currently have a 25' side setback. In the AG, Agricultural District, the RLI provides for 35' side setbacks creating a 70' separation between all new structures. Granting a variance to allow a 25' side setback for the addition would result in maintaining the existing 50' separation between structures. Therefore, a side setback reduction would only directly affect the house to the north, would not harm the existing open space, and would be consistent with the original approved site plan for Long Lake Estates.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the October 27, 2004, Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. McLaughlin, to approve. (Motion carried 5-0)

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration.

**Attachment(s):** Planning Report, Justification, Home Owner's Association approval, Letters from the abutting owners, Survey, Site Plan, Future Land Use Plan Map, Zoning and Aerial Map

**TOWN OF DAVIE**  
**Development Services Department**  
**Planning and Zoning Division**  
*Staff Report and Recommendation*



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**Applicant Information**

**Owners:**

**Name:** Paul Garcia & Maria Escabi  
**Address:** 3692 Churchill Downs Drive  
**City:** Davie, FL 33328

**Petitioner:**

**Name:** Mira Group, Inc.  
Pedro Mirabal, Principle  
**Address:** 6155 Miami Lakes Drive  
**City:** Miami Lakes, FL 33014  
**Phone:** (305) 556-1808

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**Background Information**

**Date of Notification:** October 20, 2004      **Number of Notifications:** 73

**Application History:** No deferrals have been requested.

**Application Request:** Variance **FROM:** §12-81 (A) of the Land Development Code, Conventional Single Family Development Standards, which requires 35' minimum side setbacks in the AG, Agricultural District; **TO:** reduce the side setback on the north side of the property to 25' so that an addition may be constructed in line with the 25' side setback of the existing home.

**Address/Location:** 3692 Churchill Downs Drive/Generally located on the east side of Churchill Downs Drive, approximately 700' north of Laurel Road.

**Future Land Use Plan Map Designation:** Residential (1 DU/AC)

**Zoning:** AG, Agricultural District

**Existing Use:** 4,959.5 square foot single family dwelling

**Proposed Use:** 6,481.5 square foot single family dwelling

**Parcel Size:** 0.804 acres (35,000 square feet)

### Surrounding Uses:

**North:** Single family dwelling  
**South:** Single family dwelling  
**East:** Open Space, Nob Hill Road  
**West:** Single family dwelling (model row)

### Surrounding Future Land Use Plan Map Designations:

Residential (1 DU/ AC)  
Residential (1 DU/ AC)  
Residential (1 DU/ AC)  
Residential (1 DU/ AC)

### Surrounding Zoning:

**North, South, East, & West:** AG, Agricultural District

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## **Zoning History**

**Previous Requests on same property:** The boundary plat, Long Lake Estates II Plat, which includes Parcels A, B, and C, and is restricted to 454 single-family homes, was approved on September 6, 2000.

The site plan, SP 11-2-01 Long Lake Ranches, was approved on December 19, 2001.

The subdivision plat, Long Lake Ranches Plat I, was approved on June 5, 2002.

**Related Variance Request:** The variance, V 4-1-04 G.L. Homes, **FROM:** Section 12-81(A) of the Land Development Code that was applicable at the time of the site plan approval for Long Lake Estates on December 19, 2001, which requires a minimum side setback of 25 feet for the single-family residences in the AG, Agricultural district; **TO:** reduce the side setbacks for a model home on Lot 128 to 21.9 feet on both sides of the proposed Model 6, was approved on July 7, 2004.

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## **Application Details**

The applicant has requested a variance from §12-81 (A) of the Land Development Code, Conventional Single Family Development Standards, which requires 35' minimum side setbacks in the AG, Agricultural District; to reduce the side setback on the north side of the property to 25' so that an addition may be constructed in line with the 25' side setback of the existing home. At the time of site plan approval the side setback in the AG, Agricultural District was 25', and the home was constructed at this side setback. The adoption of the Rural Lifestyle Initiative changed the minimum side setback in the AG, Agricultural District to 35'.

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## **Applicable Codes and Ordinances**

§12-24 (A) *Agricultural (AG) District:* This district is intended to maintain, preserve and protect areas of the Town of Davie that are predominately in agricultural uses, and/or have historically demonstrated agriculture productivity. This district is intended to maintain the rural character of the town and implement the Town of Davie Comprehensive Plan.

§12-81 (A) Conventional Single Family Development Standards, AG, Agricultural District, requires the following minimums: lot area of 43,560 square feet, 150' frontage, 40'-50' staggered front setback, 35' side & rear setbacks, 35' maximum building height, and 25 percent maximum building coverage.

Article IX. Rural Lifestyle Regulations, Ordinance No. 2002-35, adopted on October 16, 2002.

§12-309 Review for variances.

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## Comprehensive Plan Considerations

**Planning Area:** The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 100.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

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## Staff Analysis

The applicant's request is to reduce the required side setback of the AG, Agricultural District by 10' on the north side of the property in order to allow the construction of a 1,886 square foot addition that would maintain the side setbacks of the existing 4,959.5 square foot home. The addition contains a guest bedroom that has a full bathroom, walk-in closet, and has an exterior door, storage room, pool bathroom, television room, game room, fireplace, and covered patio with a bar, barbeque, sink, and refrigerator.

The applicant has obtained consent from the Home Owner's Association and both abutting neighbors. The justification by the applicant for this variance is that the existing home has been built with a 25' side setback. In review of the survey and building plans, staff concludes that while it may seem logical to build an addition in line with an existing structure, the parcel and existing home can accommodate an addition with a 35' side setback that includes the proposed amenities.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations in the Long Lake Estates subdivision currently have a 25' side setback. In the AG, Agricultural District, the RLI provides for 35' side setbacks creating a 70' separation between all new structures. Granting a variance to allow a 25' side setback for the addition would result in maintaining the existing 50' separation between structures. Therefore, a side setback reduction would only directly affect the house to the north, would not harm the

existing open space, and would be consistent with the original approved site plan for Long Lake Estates.

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## Findings of Fact

### Variances:

#### **Section 12-309(B) (1):**

**The following findings of facts apply to the variance request:**

- (a) There are no special circumstances or conditions applying to the land or building for which the variance is sought;

*The 35,000 square foot parcel and existing home can support an addition that does not require a variance. While the design of the expansion logically aligns with the existing side setback of 25', a plan that includes all of the desired amenities can be designed with a 35' side setback.*

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

*The required 35' side setbacks or 70' separation between all new structures in the AG, Agricultural District applies equally to properties within this development and zoning district.*

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

*The parcel is being reasonably used now without a variance, and an addition can be constructed at the required 35' side setback. The addition is being attached to a blank wall without windows, therefore moving the addition 10' to meet the 35' side setback will have no impact on the internal design of the home.*

and that alleged hardship is self-created by any person having an interest in the property.

*The need for a variance is created by the owner's desire for an addition in line with the existing home.*

- (b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

*This parcel is being reasonably be used now; however the request is the minimum needed to allow an addition that is in line with the existing home.*

- (c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side setback to be reduced from 35' to 25' to construct the proposed addition will not be detrimental to the adjacent properties; it will only impact the parcel to the north and this neighbor has provided consent to the request.*

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### **Staff Recommendation**

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

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### **Planning and Zoning Board Recommendation**

At the October 27, 2004, Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. McLaughlin, to approve. (Motion carried 5-0)

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### **Town Council Action**

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### **Exhibits**

1. Justification
2. Home Owner's Association approval
3. Letters from the abutting owners
4. Survey
5. Site Plan
6. Future Land Use Plan Map
7. Zoning and Aerial Map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_



# MIRA GROUP, INC.

D E S I G N B U I L D

August 27, 2004

Town of Davie  
Attention: Building Official  
6591 SW 45<sup>th</sup> Street  
Davie, Florida 33314

Ref: New Addition to Garcia Residence  
Mr. and Mrs. Paul Garcia  
3692 Churchill Downs Drive  
Davie, Florida  
Variance – To allow the addition at the existing 25 feet setback

Building Official – Town of Davie

This letter is to request the side setback for the new addition to remain 25' as required/provided for the existing residence.

Thank you very much for your attention to this matter.

Respectfully,

  
Pedro Mirabal  
Principle/Mira Group, Inc.



*Incorporated  
since 1934*



**Miami  
Management, Inc.**  
Full Service Property Management & Maintenance

Main Office:  
14275 S.W. 142 Avenue  
Miami, Florida 33186  
Tel: (305) 378-0100  
Fax: (305) 378-0039  
E-mailed Dept. Fax: (305) 251-4426  
Toll Free: 1-800-273-4601

Reply to: \_\_\_\_\_

August 9, 2004

Paul Garcia  
3692 Churchill Downs Dr.  
Davie, FL 33328

RE: Long Lake Ranches HOA  
Account #3818-000067

Dear Mr. Garcia,

This letter will confirm that your request on the above mentioned property, was **conditionally approved** by the Architectural Review Committee for the following:

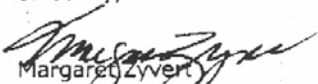
**Conditionally Approved: Game Room addition per plans submitted. Roof must match existing roof. Exterior paint must match existing colors of house.**  
**Note: Contractor is not permitted to post any signs on property.**

**Owner must submit landscape plans prior to commencement of construction**

It is the ultimate responsibility of the property owner to insure that their Architectural request conforms to all the relevant Declaration of Covenants and Restrictions, Bylaws, and Rules and Regulations of the Association pertaining to any and all alterations and/or changes to the exterior of their home.

If you have any questions, please feel free to contact me at 954-846-7545.

Sincerely,

  
Margaret Zyvert  
Agent for the Association

MZ/le

North Miami Office:  
1780 N.E. Miami Gardens Dr.  
Suite 125  
North Miami, Florida 33178  
Tel: (305) 956-5016  
Fax: (305) 956-2717

Broward Office:  
1345 Sawgrass Corporate Parkway  
Sunrise, Florida 33123  
Tel: (954) 846-7543  
Fax: (954) 846-8332  
Toll Free: 1-800-660-5716

Divisions:  
MMI of the Palm Beaches, Inc.  
901 Northpoint Parkway  
Suite 108  
West Palm Beach, Florida 33407  
Tel: (561) 966-7816  
Fax: (561) 966-7244

MMI of the Gulf Coast, Inc.  
28731 South Circle Court  
Suite 6  
Bonita Springs, Florida 34135  
Tel: (239) 949-7741  
Fax: (239) 949-7751

8/25/04

Richard & Debra Ferber  
3672 Churchill Downs Drive  
Davie , FL 33328

Ref: New Addition to Garcia residence  
3692 Churchill Downes Drive  
Long Lake Ranches  
Davie , Florida

This letter is to attest that we are in agreement that the Garcia's our neighbors to the right of us can build their addition to follow the line of their house to the back yard area; maintain their side set back of 25 feet.

Respectfully,

Richard & Debra Ferber

Handwritten signatures of Richard and Debra Ferber. The signature of Richard is on top, and the signature of Debra is below it.

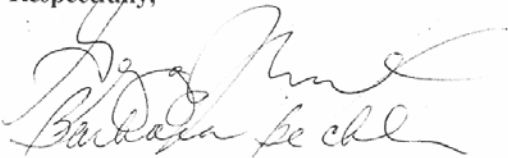
8/25/04

Gregory & Barbara Beckler  
3712 Churchill Downs Drive  
Davie , FL 33328

Ref: New Addition to Garcia residence  
3692 Churchill Downes Drive  
Long Lake Ranches  
Davie , Florida

This letter is to attest that we are in agreement that the Garcia's our neighbors to the right of us can build their addition to follow the line of their house to the back yard area; maintain their side set back of 25 feet.

Respectfully,

Handwritten signatures of Gregory and Barbara Beckler. The signature for Gregory is on top, and the signature for Barbara is below it. Both are written in cursive.

Gregory & Barbara Beckler

4341 SW 62nd Avenue  
Davie, Florida 33314



Tel. (954) 585-0997  
Fax (954) 585-3927

# SKETCH OF BOUNDARY SURVEY FOR G.L. HOMES

## LOT 67

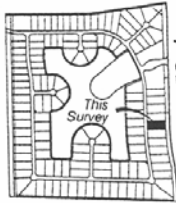
### LONG LAKE RANCHES PLAT ONE

3692 CHURCHILL DOWNS DRIVE  
DAVIE, FLORIDA 33328

#### CHURCHILL DOWNS DRIVE

CERTIFIED TO:

NOVA TILE COMPANY  
COMMONWEALTH LAND TITLE INSURANCE COMPANY  
PAUL A. GARCIA AND MARIA R. ESCABE  
WELLS FARGO HOME MORTGAGE, INC.



Location Map

NOT TO SCALE

- LEGEND:**
- C.B.S. CONCRETE BLOCK STRUCTURE
  - L.B. LICENSED BUSINESS
  - ARC RADIUS
  - DELTA CHORD BEARING
  - CURVE NUMBER
  - PLAT BOOK
  - POINT OF COMMENCEMENT
  - POINT OF BEGINNING
  - BROWARD COUNTY RECORDS
  - OFFICIAL RECORDS BOOK
  - SQUARE FOOT
  - A/C AIR CONDITIONER
  - SURFACE ELEVATION
  - CONCRETE
  - NON-VEHICULAR ACCESS LINE
  - MANHOLE
  - FIRE HYDRANT
  - TELEPHONE BOX
  - CONCRETE LIGHT POLE
  - WATER VALVE
  - CLEANOUT(S)
  - WATER METER(S)
  - ELECTRIC METER
  - CABLE TELEVISION
  - ELECTRIC HAND HOLE BOX
  - CATCH BASIN
  - METAL FENCE
  - SET 5/8" IRON ROD L.B. 6633
  - FOUND 5/8" IRON ROD L.B. 6633
  - SET MAG NAIL & DISC L.B. 6633
  - FOUND NAIL & TIN TAB

#### LEGAL DESCRIPTION: LOT 67

LOT 67, LONG LAKE RANCHES PLAT ONE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 171, PAGE 191, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAD LAND SITUATE WITHIN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, CONTAINING 35,000 SQUARE FEET OR 0.804 ACRES, MORE OR LESS.

#### SURVEY NOTES:

1. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP RIGHTS-OF-WAY, EASEMENTS OR OTHER MATTERS OF RECORD BY STONER & ASSOCIATES, INC.
2. UNDERGROUND FEATURES SUCH AS: ENCROACHMENTS, UTILITIES, FOUNDATIONS, PIPELINES AND CABLES WERE NOT LOCATED OR SHOWN HEREON. THIS SURVEY IS LIMITED TO ABOVEGROUND FEATURES ONLY.
3. THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
4. THIS SURVEY REPRESENTS A BOUNDARY SURVEY AS DEFINED IN THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING AND MAPPING IN CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE.
5. THE SYMBOLS REFLECTED IN THE LEGEND AND ON THIS SURVEY MAY HAVE BEEN ENLARGED FOR CLARITY. THE SYMBOLS HAVE BEEN PLOTTED AT THE CENTER OF THE FIELD LOCATION AND MAY NOT REPRESENT THE ACTUAL SHAPE OF THE FEATURE(S) IT REPRESENTS.
6. THE PROPERTY SHOWN HEREON IS LOCATED WITHIN FLOOD ZONE F AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 125105 0305 F, EFFECTIVE DATE JULY 21, 1995.
7. THE BEARINGS SHOWN HEREON ARE REFERENCED TO S.80°24'57"W ALONG THE NORTH LINE OF LONG LAKE RANCHES PLAT ONE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 171, PAGE 191 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
8. ELEVATIONS SHOWN HEREON ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 FROM THE BROWARD COUNTY ENGINEERING DEPARTMENT BENCHMARK DESCRIBED AS FOLLOWS: SET X-CUT ON EAST R/W OF STORM MANHOLE, EAST SIDE OF NOBIL ROAD IN FRONT OF ENTRANCE TO "TREE TOPS PARK", 35' EAST OF CENTERLINE OF NOBIL ROAD, B.M. 6-21-2000 NOTE: X-CUT ON THE NORTH EDGE OF R/W, ELEVATION = 7.34'
9. OWNERSHIP OF FENCES WAS NOT DETERMINED.

#### CERTIFICATE:

THIS IS TO CERTIFY THAT I HAVE RECENTLY SURVEYED THE PROPERTY DESCRIBED AND SHOWN HEREON AND HAVE SET OR FOUND MONUMENTS AS INDICATED ON THIS SKETCH AND THAT SAID ABOVE GROUND SURVEY AND SKETCH ARE IN ACCORDANCE WITH THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

REVISIONS	DATE	BY
3. Add Certification	10/11/02	RGC
4. First Survey/Convert Lot Per New Plat Recording	9/13/02	THW
5. Foundation Survey	4/3/02	THW
2. Plat Plan	1/18/02	THW

RICHARD G. CRAWFORD, JR.

PROFESSIONAL SURVEYOR AND MAPPER NO. 5371 - STATE OF FLORIDA

DATE OF FIELD: DRAWN BY: CHECKED BY: FIELD BOOK:

SCALE: 1" = 30'

GRAPHIC SCALE

SEAL

NOT VALID UNLESS  
SEALED HERE WITH  
AN EMBOSSED  
SURVEYOR'S SEAL

CHILL DOWNS DRIVE DAVE,

1(954)557-5241

Date: 09/15/04	Revision:
Scale: AS SHOWN	
Job No.:	
Drawn by: CLP	
Checked by:	
Size:	

1

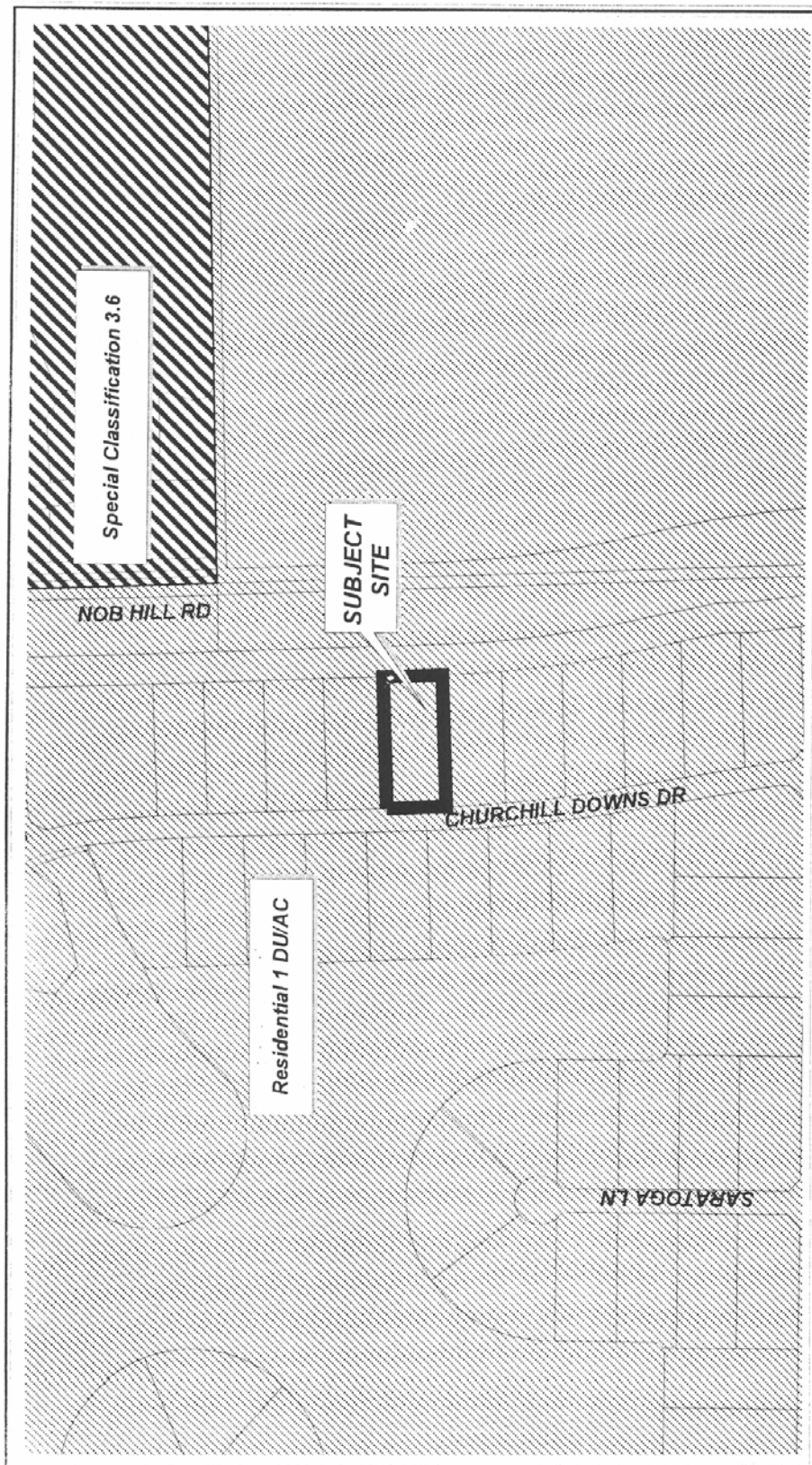
## BURGLARY SECURITY

- THE FOUNDATION**
- At the annual meeting, the 200 consultants at the 2000 and 2001 meetings were a welcome featured exhibit.

GENERAL NOTES:

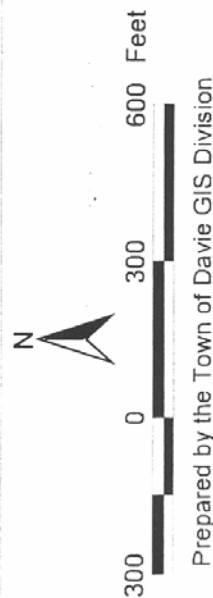
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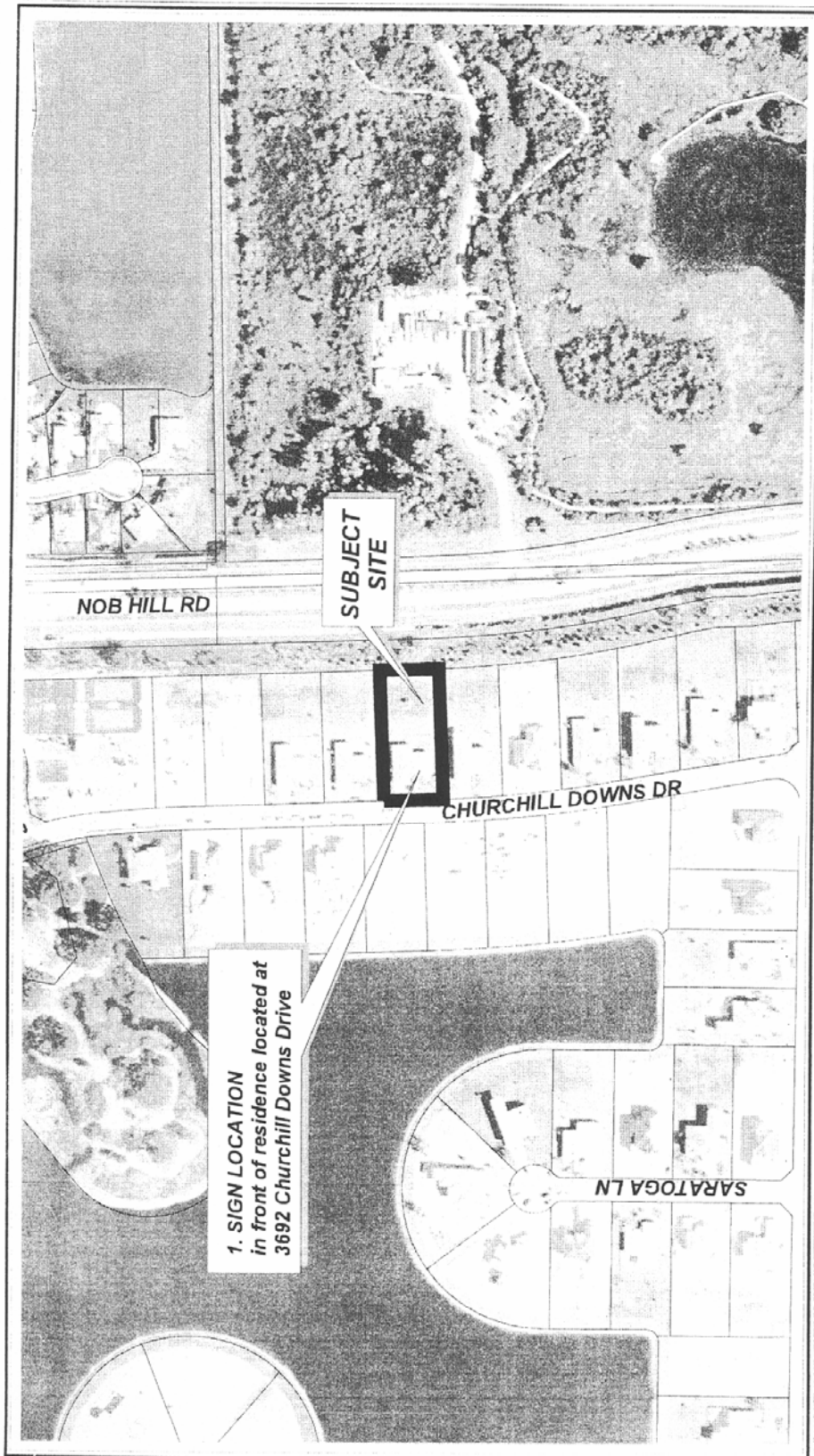




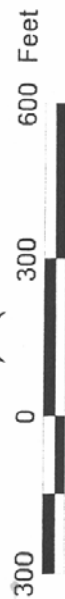
**VARIANCE**  
**V 9-1-04**  
**Future Land Use Map**

Prepared By: id  
 Date Prepared: 10/11/04





Date Flown:  
 12/31/02



Prepared by the Town of Davie GIS Division



# **VARIANCE** **V 9-1-04** **Sign Location Map**

Prepared By: ID  
 Date Prepared: 10/11/04

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